

Exhibit - Psi

United States versus Winstar Corp., 518 U.S. 839 (1996)
Clearfield Trust Co. versus United States, 318 U.S. 363, 369 (1943)

(Clearfield Trust Co. versus United States, 318 U.S. 363, 369 (1943). ("The United States does business on business terms") (quoting United States versus National Exchange Bank of Baltimore, 270 U.S. 527, 534 (1926)); Perry versus United States, supra at 352 (1935) ("When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . except that the United States cannot be sued without its consent") (citation omitted); United States versus Bostwick, 94 U.S. 53, 66 (1877) ("The United States, when they contract with their citizens, are controlled by the same laws that govern the citizen in that behalf"); Cooke versus United States, 91 U.S. 389, 398 (1875) (explaining that when the United States "comes down from its position of sovereignty, and enters the domain of commerce, it submits itself to the same laws that govern individuals there").

See Jones, 1 Cl.Ct. at 85 ("Wherever the public and private acts of the government seem to commingle, a citizen or corporate body must by supposition be substituted in its place, and then the question be determined whether the action will lie against the supposed defendant"); O'Neill versus United States, 231 Ct.Cl. 823, 826 (1982) (sovereign acts doctrine applies where, "[w]ere [the] contracts exclusively between private parties, the party hurt by such governing action could not claim compensation from the other party for the governing action"). The dissent ignores these statements (including the statement from Jones, from which case Horowitz drew its reasoning literally verbatim), when it says, post at 931, that the sovereign acts cases do not emphasize the need to treat the government-as-contractor the same as a private party.

[United States versus Winstar Corp., 518 U.S. 839 (1996)].